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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,139	03/12/2004	Dov Z. Glucksman	B80-004	6795
34021	7590	09/11/2006		
GEORGE A. HERBSTER 40 BEACH STREET SUITE 303 MANCHESTER, MA 01944			EXAMINER ALEXANDER, REGINALD	
			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/800,139

Applicant(s)

GLUCKSMAN ET AL.

Examiner

Reginald L. Alexander

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 15, 16, 28 and 29 is/are rejected.
- 7) ☒ Claim(s) 3-14, 17-27 and 30-37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Huang.

There is disclosed in Huang a beverage brewing system, comprising: a cylindrical body 11 having a closed end (bottom) and an open end (top) for receiving an infusible material and liquid; a piston 14 spanning the cylindrical body portion in a sealed relationship therewith, the piston having a plurality of one-way valves 17 therethrough; and an operator 13b for moving the piston along the cylindrical body.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joergensen '189 in view of Huang.

There is disclosed in Joergensen an infusion beverage brewing system, comprising: a container (tea pot) with an open top for receiving a quantity of hot liquid;

an infuser 1 including, an infusing chamber with open (top) and closed (bottom) ends having a solid wall portion 2 extending from the closed end and a perforated wall portion 3 intermediate the solid wall portion; and a plunger assembly 4, 5, having a piston 5 spanning the infusing chamber, and an operator 4 for moving the piston.

Huang, as discussed above, discloses the use of plural one-way valves in a piston assembly.

It would have been obvious to one skilled in the art to substitute the piston of Joergensen with that disclosed in Huang, in order to prevent infusing material from passing therethrough.

#### ***Allowable Subject Matter***

Claims 3-14, 17-27 and 30-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 07 August 2006 have been fully considered but they are not persuasive. Applicant argues that the one-way valve arrangement taught in Huang does not extend through the piston structure. It should be noted that there is nothing recited in applicant's claim 28 which would distinguish the claimed valve arrangement from that shown in Huang. The valves of Huang extend through an upper portion of the piston structure. The claimed language is met since applicant merely recites a valve which extends "therethrough". The piston of the prior art has two

separate portions which are separated from each other, and the valve extends through one of them.

Applicant argues that Huang fails to disclose plural one-way valves but recites in his own arguments (para. 1, page 14) that there are plural valves 171.

In response to applicant's argument that there is no suggestion to combine references, the examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In this case, the prior art reference of Huang suggest the use of a different type of piston for agitating and brewing a beverage, the piston having a one-way valve arrangement which would prevent beverage material from passing through. This valve arrangement being an alternative means than that taught in the Jorgenson reference.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla  
03 September 2006

  
Reginald L. Alexander  
Primary Examiner  
Art Unit 1761